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Office of the Director  
Group 3600

In re application of  
Albert T. Wu et al.  
Application No. 09/673,559  
Filed: February 22, 2001  
For: SPACECRAFT SHADING DEVICE

DECISION ON PETITION  
TO WITHDRAW THE  
HOLDING OF ABANDONMENT

This is in reply to applicants' renewed Petition To Withdraw Holding of Abandonment under 37 CFR 1.181(a) filed August 12, 2003. The delay in treating this petition is sincerely regretted.

The petition is **DENIED**.

A review of the application file reveals that a non-final Office action was mailed to applicants on January 16, 2002. Because no proper response has been received prior to the expiration of the six month statutory period to respond, the application was held abandoned and a Notice to that effect mailed on August 27, 2002.

In the previous petition filed November 4, 2002 applicants submitted a copy of what was allegedly received by the Office on June 24, 2002. The copy of the submission included a Certified Mail receipt with a USPTO mailroom date stamp of June 24, 2002. The Certified Mail receipt was dated June 16, 2002. Applicants also argued that on July 1, 2002, a telephone call from the USPTO was made to the applicants informing them of the overpayment for the extension of time and that the application would be forwarded to the examiner after processing the refund.

It was noted in the decision on the petition mailed June 12, 2003 that nothing submitted by applicants on November 4, 2002 could be regarded as evidence sufficient to withdraw the holding of abandonment. Further it was noted that, while applicants do have a Certified Mail receipt and a date stamp of receipt by the USPTO. However, there is no "tie-in" between the receipt and the contents of the submission and that without such "tie-in" all that can be proven is that applicants did mail something to the USPTO on June 16, 2002, and it was received by the Office on June 24, 2002, but there is no evidence as to what was submitted. Furthermore, there is no record in the file of the July 1, 2002 phone call to the applicants. There is also no record of a refund having been processed.

With this renewed petition applicants attempt to show, on various accounts, a "tie in" between the receipt and the contents of the submission. However, none of the rational

presented provides evidence that what was sent in on June 24, 2002 represents the contents of the submission.

Therefore, the application is properly held as being abandoned.

Since applicants' petition to withdraw the Holding of Abandonment will not be granted applicants may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(m); and **(3)** a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$110. The fee for a petition under the unintentional standard is \$1,300.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

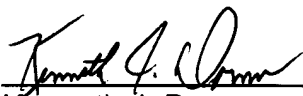
The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner of Patent Examination Policy  
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Alexandria, VA 22313-1450

By FAX: (703) 308-6916  
Attn: Office of Petitions

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KJD/ekn 11/10/03